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brief

Applicant/
Real Party in Interest : POSEY, JOHN

Serial Number : 09/767,742

Filed : 01/23/2001

For : GOLFING AIDE SYSTEM

Examiner : WHITE, CARMEN D.

Group Art Unit : 3714

ATTORNEY DOCKET : BD46/17

Commissioner for Patents
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SUBSTITUTE APPLICANT'S APPEAL BRIEF
(Submitted in Triplicate)

This is an appeal from the Examiner's Final Rejection of January 29, 2003. An original applicant's appeal brief was timely submitted June 24, 2003. A notification of non-compliance with 37 CFR 1.192(c) was mailed November 19, 2003. The present substitute appeal brief is in response to such notification. The only changes to the appeal brief are those made to respond to the Examiner's comments.

REAL PARTY IN INTEREST

The real party in interest in this appeal is applicant John Posey..

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences which will directly affect, or be directly affected by, or have a bearing on, the decision in the pending appeal.

STATUS OF THE CLAIMS

The status of the claims in this application is:

A. TOTAL NUMBER OF CLAIMS IN APPLICATION:

Claims originally filed in this application are:

Claims 1 - 5.

B. STATUS OF ALL THE CLAIMS.

1. Claims canceled: None.
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: Claims 1 - 5.
4. Claims allowed: None.
5. Claims rejected: Claims 1 - 5.
6. Allowable Claims: None.

STATUS OF AMENDMENTS

A Final Office Action issued January 29, 2003, rejecting Claims 1 - 5 under 35 U.S.C. 103(a). No amendments were filed subsequent to the final rejection.

SUMMARY OF THE INVENTION

The invented device is a Golfing Aide System, which allows a golfer to "map" a course as he or she is walking or moving along the course. (See Specification Page 9, Lines 2 - 6.)

The Golfing Aide System 10 has several components, the first of which is a global positioning system device 12. The global positioning system device is capable of pinpointing the accurate positions of key landmarks on the golf course for mapping of a landscape of a golf course. The global positioning system transmits and receives information regarding the position of the user. The global positioning system provides latitude and longitude information as well as the GPS grid location to the system. The system provides elevational information as well. (See Specification Page 10, Lines 11 - 18.)

The system also includes a cellular technology device 14. The cellular technology device provides standard and advanced mobile phone communication capabilities to golfers. The cellular technology device is adapted to transmit and receive information. (See Specification Page 9, Lines 19 - 22.)

The system further includes a wireless modem 15. The wireless modem is able to link the system to a phone line and provide for data communication. The wireless modem can transmit and receive information. (See Specification Page 9, Lines 23 - 26.)

The system includes a low power radio frequency transceiver 16. The radio frequency transceiver allows functional communication between golfers, the clubhouse and any other entity requiring this type of communication. The low power radio frequency transceiver is further adapted to transmit and receive information. (See Specification Page 10, Lines 1 - 6.)

The system includes a cellular digital packet data technology device 18. The cellular digital packet data technology device allows for the fast and cost effective transmission of data as required for internet access, email and the like. The cellular digital packet data technology device is adapted to transmit and receive information. (See Specification Page 10, Lines 7 - 12.)

The system includes a handheld proprietary touch screen personal computer 20 for a golfer adapted to transmit and receive information between the personal computer and the global positioning system device, the cellular technology device, the wireless modem, the low power radio frequency transceiver and the cellular digital packet data technology device. (See Specification Page 10, Lines 13 - 18.)

The system also includes an operating system 22. The operating system allows a golfer to interface with a computer. The operating system also allows the user to select from the various operations the system is capable of performing. (See Specification Page 10, Lines 19 - 22.)

The system finally includes software 24. This software performs the necessary operations based upon the input and output of the personal computer to enable the system to work and assist the golfer. Some operations this software can perform include automated distance calculations, equipment indication, club selection, course management, scoring, statistics, cataloging courses, mapping of a landscape of a golf course and other

functions in a synchronous and beneficial fashion for improved golfing performance. (See Specification Page 10, Line 23 through Page 11, Line 4.)

The system further includes a method of assisting golfers by mapping a landscape of a golf course comprising of multiple steps as listed below. (See Specification Page 11, Lines 5 - 7.)

The method provides a system 26 having a global positioning system, personal computer, operating system and software. (See Specification Page 11, Lines 10 - 14.)

The method includes a step that activates the system 28 to begin collect latitude and longitude coordinates from a global positioning system at a rate of no less than one coordinate per second. (See Specification Page 11, Lines 15 - 18.)

Next, the method traces the perimeter 30 of the desired region such as a tee box, bunker, sand trap, green and fairway while the global positioning system collects all the points associated with the outline of that region. (See Specification Page 11, Lines 19 - 23.)

The method ends the data collection 32 by the manual disabling of the data collection. This termination of data collection can also be done automatically. One alternative method of termination is by the system recognizing that the golfer has returned to the origin. (See Specification Page 11, Line 24 through Page 12, Line 2.)

The method includes a step that imports a unique field 34 into the electronically traced region. The field that is

inserted is representative of the region being traced. This field comes from the class of fields including colors, textures, designs and photo images which are loaded or taken from a data base of the computer. (See Specification Page 11, Line 24 through Page 12, Line 2.)

The method further includes forming a graphic representation 36 of the newly traced region with the appropriate field displayed in the associated region with different representation for each associated region. (See Specification Page 12, Lines 3 - 6).

The method then collects a response 38 from a golfer as to whether there is another region that needs to be collected, if "Yes" return to activating step, if "No" end 40. (See Specification Page 12, Lines 7 - 9.)

A person, preferably the golfer, holding a unit of the present invention will walk or ride around a specific feature of a hold on a golf course i.e. a tee box, bunker, fairway, putting green, etc. As the person moves around the feature, the software will read latitude/longitude position from the integrated global positioning system receiver. This reading will be taken at least once every second. As the person concludes the movement by returning to the starting point, the collection of the latitude/longitude points will define to immediately draw a tee box onto the screen. Similarly, walking or riding along a cart path, tree, bunker, green or any other course feature will cause that feature to be drawn to the screen. By this process, any

golf course may be dynamically mapped. Realism through use of photo technology is accomplished by using portions of photo images of golf course features, stored in the computer's data base, to fill the outlines of the data points drawn to screen. (See Specification Page 12, Lines 10 - 25.)

The present invention will encompass a handheld PC with the following chip sets on board: global positioning system, cellular, low power RF transceiver, cellular digital packet data, wireless modem. Primarily these chip sets will be utilized to perform various functions for the golfer or golfing industry, as well as ancillary functions commensurate with standard Microsoft supported functions, such as internet access, word processing, spreadsheets, personal data, etc. Many non-golf related solutions can be provided due to the flexible, and powerful position reporting, and communication facilities built into the unit. (See Specification Page 12, Line 26 through Page 13, Line 9.)

Utilizing the Microsoft Windows CE operating system, supporting the present inventions application software, the following on board modules will perform associated functions. (See Specification Page 12, Lines 10 - 12.)

Global Positioning System (See Specification Page 13, Line 13.)

The present invention software will continuously poll the global positioning system receiver, and apply proprietary algorithms to determine the absolute position of the device on

the surface of the earth. This position information is so precise as to deliver the accuracy required by a professional, or non professional golfer, in the determination of club selection and strategy, in playing any given shot. Additional functionality will be for the golfer, through the map generating feature of the present inventions software, to survey and automatically draw the course of his choice. This feature will allow for almost immediate play on any course in the world, eliminating the need for pre-surveyed course data. Ancillary functionality will be general geographic mapping, such that driving instructions, or position location of any given destination will be available. (See Specification, Page 13, Lines 14 through Page 14, Line 2.)

Cellular (See Specification, Page 14, Line 3.)

Cellular technology will give standard, and advanced mobile phone communication capability to the golfer. (See Specification, Page 14, Lines 4 - 5.)

Low Power RF Transceiver (See Specification, Page 14, Line 16.)

This feature will allow private, functional communication between the golfer/device and the clubhouse, or any other entity requiring that type of communication. Functionality for the golf industry would be the ability of the golf course to dynamically update the device with current pin position, wind condition, or other pertinent course information. Additionally, the golf

course would use this feature to determine location and speed of play of the golfer, as well as to present advertising, or receive food and beverage orders from the player. (See Specification, Page 14, Line 7 - 15.)

Cellular Digital Packet Data (See Specification, Page 14, Line 16.)

This technology will allow for the fast, and cost effective transmission of data as required for Internet access, email, etc. (See Specification, Page 14, Lines 17 - 18.)

Wireless Modem (See Specification, Page 14, Line 19.)

The modem will be the link to phone line, data communications. (See Specification, Page 14, Lines 20 - 21.)

Though the present invention software was developed primarily for the golfing industry, additional features will be built in to allow such things as: (See Specification, Page 14, Lines 22 - 24.)

If the device is lost, communications can be established and the device could supply its specific geographical location. (See Specification, Page 14, Lines 25 - 26.)

Parents could locate the position of their children and communicate with them easily. (See Specification, Page 15, Lines 1 - 2.)

The location of employees, or vehicles, or property, could be easily established. (See Specification, Page 15, Lines 3 - 4.)

ISSUE

Whether Claims 1 - 5 are unpatentable under 35 U.S.C. 103(a) over the prior art (Karmel and Lobb) et al.

GROUPING OF CLAIMS

Claims 1 - 5 are the only Claims under consideration and can be considered as one group.

ARGUMENT

The Examiner has rejected claims 1 through 5 as unpatentable over Karmel (6,353,743) in view of Lobb et al (5,810,680). Applicant directs the Board's attention to the differences between the described patented prior art and the claims of the current application. Rather than to list the similarities, applicant directs the Board's attention to the difference between the inventions. The current invention utilizes technology to enable the golfer or user to construct an accurate map of the area he or she wishes to map. Such utilized technology is listed in the various paragraphs of the several claims of the appendix.

The prior art allows a user to use a stylus to mark an existing map or to scribble on a screen face to construct a map, whereas the current invention allows the user to employ high technology tracking, vis-a-vie, GPS mapping, to accurately construct a map of the area. While it is understood that the prior art allows a user to draw a map, by sketing the map

manually on a screen, the current invention allows a user to walk out a desired aspect of the terrain, such as a sand bunker or a green, all the while sending his location and mapping his location by using satellite technology to construct such a map. The prior art allows a user to find his location using GPS. The current invention goes a large step forward by enabling a user to "walk and map" as he or she traverses a golf course. The technology allows for a highly accurate map to be constructed with little more than a user walking around the items to be mapped. It should be understood that the map so constructed would be held in the memory of the computer and be made readily available for consultation or amendment.

Applicant submits that the Karmel and Lobb patents do not teach the use of a GPS device to construct a map of a golf course as disclosed and claimed. Note claim 1, paragraph 2 and the last paragraph, particularly the last 3 lines. Note Claim 2, the last paragraph, particularly the last 3 lines. Note Claim 3, paragraph 2. Note claim 4, paragraphs 1, 4 and 7. Note Claim 5, paragraphs 2, 12 and 15.

Applicant submits that the Karmel and Lobb patents, whether taken individually or when combined under 35 U.S.C. 103, do not teach the use of a GPS device to construct a map of a golf course as alleged by the Examiner. In support of his rejection, the Examiner cites two existing patents, Karmel (6,353,743) in view of Lobb et al (5,810,680). Karmel does not disclose constructing

or generating a map but, rather, discloses a positioning system which receives GPS and packet radio signals to determine a location at which the device is held. Note the Abstract and the claims, particularly claim 1, paragraph 1. Lobb, like Karmel, discloses a device which is programmed to contain or download a map of a golf course not to construct a map. Note the Abstract and the claims, particularly claims 1, 2 and 3. Neither cited prior art discloses a device that can construct or generate a map of a golf course as claimed. Neither device teaches or suggests the mapping ability of a hand-held GPS system for mapping a golf course. Applicant's invention would not have been obvious as alleged by the Examiner in the Final Office Action.

All new inventions are the result of applying the technology of the previous inventions. The aspect that makes a new invention new, and patentable, is that it not taught or implied, or made obvious by the combination of other prior art. It is not enough that one can look at an invention and then pick from a long list of prior art those inventions that have at least one aspect of the invention, and then combining the list of inventions argue that the present invention is obvious. The Court in *In re Fritch*, 972, F.2d 1260 held that it is impermissible to use the claimed invention as an instruction manual or "template" to piece together isolated disclosures and teachings of the prior art so that the claimed invention is rendered obvious. It should be noted that even though the prior

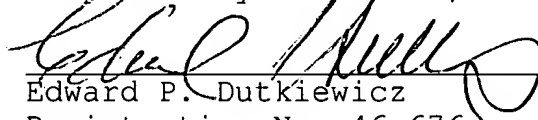
art does teach GPS and displaying a map, which was downloaded from another source, neither prior art teaches a GPS system which can create a map. As such, the present invention is not made obvious by the prior art and the applicant requests that the final ruling of the Examiner be reversed, and a patent issue for the claimed invention.

CONCLUSION

It is requested that the rejection of Claims 1 - 5 be withdrawn and the present application be allowed and passed to issue.

Reconsideration, a reversal of the Examiner's position, and a Notice of Allowance are requested.

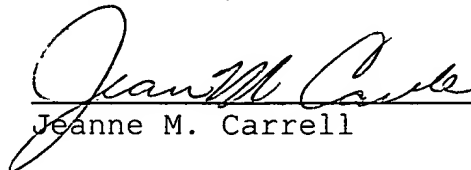
Respectfully submitted,



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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing Appeal Brief and appendix is being deposited with the U.S. Postal Service with sufficient First Class postage addressed to: Mail Stop Appeal Brief - Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Jeanne M. Carrell



CLAIMS AS AMENDED

What is claimed as being new and desired to be protected by LETTERS PATENT of the United States is as follows:

1. A golfing aide system for assisting golfers and improving their game comprising, in combination:

a global positioning system device used to accurately locate positions of key landmarks on a golf course for mapping of a landscape of a golf course, the global positioning system device being able to transmit and receive information;

a cellular technology device providing standard and advanced mobile phone communication capabilities to golfers, the cellular technology device being able to transmit and receive information;

a wireless modem being able to link the system to a phone line and provide for data communication, the wireless modem being able to transmit and receive information;

a low power radio frequency transceiver allowing functional communication between golfers, the clubhouse and any other entity requiring this type of communication, the low power radio frequency transceiver being able to transmit and receive information;

a cellular digital packet data technology device allowing for the fast and cost effective transmission of data as required for intercomputer access, email and the like, the cellular digital packet data technology device being able to transmit and receive information;

a handheld proprietary touch screen personal computer for a golfer being able to transmit and receive information between the personal computer and the global positioning system device, the cellular technology device, the wireless modem, the low power radio frequency transceiver and the cellular digital packet data technology device;

an operating system to allow a golfer to interface with the computer; and

software to perform a plurality of programmed functions to enable the system to input, provide and store information which would assist the golfer by providing a plurality of forms of information and functions including automated distance calculations, equipment indication, club selection, course management, scoring, statistics, cataloguing courses, mapping of a landscape of a golf course, and other functions in a synchronous and beneficial fashion for improved golfing performance, with the mapping function allowing a golfer to input data to construct a map of a course by input from the golfer's handheld computer.

2. A golfing aide system for assisting golfers and improving their game comprising, in combination:

a plurality of electronic devices selected from a class of electronic devices which include such devices as a global positioning system device, cellular technology device, a wireless modem, a low power radio frequency transceiver, and cellular

digital packet data technology device each being capable of transmitting and receiving information;

a handheld proprietary touch screen personal computer for a golfer being programmed and able to transmit and receive information with any of a plurality of devices;

an operating system to allow a golfer to interface with the computer; and

software to perform programmed functions based upon the input and output of the personal computer to enable the system to input, provide and store information which would assist the golfer by performing a plurality of functions such as automated distance calculations, equipment indication, club selection, course management, scoring, statistics, cataloguing courses, golf course mapping and other functions in a synchronous and beneficial fashion for improved golfing performance, with the mapping function allowing a golfer to input data to thereby construct a map of a golf course.

3. A method of assisting golfers and improving their game comprising, in combination, the steps of:

providing a global positioning system device being capable of accurately locating positions of key landmarks of a golf course, the global positioning system device adapted to transmit and receive information and to map a landscape of a golf course;

providing a cellular technology device providing standard and advanced mobile phone communication capabilities to golfers,

the cellular technology device being able to transmit and receive information;

providing a wireless modem being able to link the system to a phone line and provide for data communication, the wireless modem being able to transmit and receive information;

providing a low power radio frequency transceiver allowing functional communication between golfers, the clubhouse and any other entity requiring this type of communication, the low power radio frequency transceiver being able to transmit and receive information;

providing a cellular digital packet data technology device allowing for the fast and cost effective transmission of data as required for intercomputer access, email and the like, the cellular digital packet data technology device being able to transmit and receive information;

providing a handheld proprietary touch screen personal computer for a golfer;

transmitting and receiving information between the personal computer and the global positioning system device, the cellular technology device, the wireless modem, the low power radio frequency transceiver and the cellular digital packet data technology device;

providing an operating system to allow a golfer to interface with the computer; and

providing software to perform programmed operations based upon the input and output of the personal computer to enable the system to work and assist the golfer for automated distance calculations, equipment indication, club selection, course management, scoring, statistics, cataloguing courses, and other functions in a synchronous and beneficial fashion for improved golfing performance.

4. A method of assisting golfers by mapping a landscape of a golf course comprising, in combination:

providing a system having a global positioning system, a personal computer, operating system and software;

activating the system to begin collecting latitude and longitude coordinates from a global positioning system at a rate of no less than one coordinate per second;

tracing a perimeter of a desired region such as a tee box, bunker, sand trap, green and fairway with the global positioning system collecting thereby collecting information regarding any one of a plurality of locations which are associated with the outline of a region which is desired to be mapped;

ending the data collection by a manual disabling of the data collection;

importing a unique field into an electronically traced region, the field being representative of the region being traced;

forming a graphic representation of a newly traced region with an appropriate field displayed in an associated region with different representations for each associated region; and

collecting a response from a golfer as to whether there is there another region needed to be collected, if "Yes" return to activating step, if "No" end.

5. A method of assisting golfers and improving their game comprising, in combination, the steps of:

providing a global positioning system device which is capable of accurately locating positions of any one of a plurality of landmarks on a golf course, the global positioning system device capable of electronically transmitting and receiving information with the device also capable of constructing a map of a landscape of a golf course;

providing a cellular technology device for providing mobile phone communication capabilities to golfers, the cellular technology device being able to transmit and receive information;

providing a wireless modem being able to link a communications system to a phone line and provide for data communication, the wireless modem being able to transmit and receive information;

providing a low power radio frequency transceiver for allowing functional communication between golfers and the clubhouse and any other entity requiring a form of communication,

the low power radio frequency transceiver being able to transmit and receive information;

providing a cellular digital packet data technology device allowing for fast and cost effective transmission of data as required for interncomputer access, email and the like, the cellular digital packet data technology device being able to transmit and receive information;

providing a handheld proprietary touch screen personal computer for a golfer;

transmitting and receiving information between the personal computer and a global positioning system device, a cellular technology device, a wireless modem, a low power radio frequency transceiver and a cellular digital packet data technology device;

providing an operating system to allow a golfer to interface with a computer;

providing software to perform programmed operations based upon the input and output of a personal computer to enable the system to work and assist the golfer by providing automated distance calculations, equipment indication, club selection, course management, scoring, statistics, cataloguing courses, and other functions in a synchronous and beneficial fashion for improved golfing performance;

activating the system to begin collecting latitude and longitude coordinates from a global positioning system at a rate of no less than one coordinate per second;

tracing a perimeter of a desired region such as a tee box, bunker, sand trap, green and fairway with the global positioning system collecting all points associated with the outline of that region to enable the computer to construct a map of the region;

ending the data collection by the manual disabling of the data collection;

importing a unique field into an electronically traced region, the field being representative of the region being traced;

forming a graphic representation of a newly traced region with an appropriate field displayed in the associated region with different representation for each associated region; and

collecting a response from a golfer as to whether there is there another region needed to be collected, if "Yes" return to activating step, if "No" end.